

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Richard McBride, # 253493,) Civil Action No.: 9:05-2603-RBH
)
Plaintiff,)
)
vs.) **O R D E R**
)
)
Shelton L. Hughes, Jr., Director of)
Clarendon County Detention Center;)
and Foster Sumpter, Officer at)
Clarendon County Detention Center,)
)
Defendants.)
)

The plaintiff, Richard McBride, who is proceeding pro se, filed this action on September 12, 2005, seeking relief pursuant to 42 U.S.C. § 1983.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge George C. Kosko for pretrial handling. On December 15, 2005, the defendants filed a motion for summary judgment. Because the plaintiff is proceeding pro se, he was informed on December 16, 2005, pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir.1975), of the possible consequences if he failed to adequately respond. Thereafter, the Magistrate Judge granted the plaintiff several extensions of time to file a response to the defendants' motion for summary judgment. On March 9, 2006, the Magistrate Judge issued an Order granting the plaintiff an additional twenty days to file a response to the defendants' motion for summary judgment. The plaintiff was also specifically advised that if he failed to respond, his case would be subject to dismissal pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute. After receiving no response, the Magistrate Judge issued a Report and Recommendation on April 3, 2006, which recommends to this court that this action be dismissed for lack of prosecution pursuant to Rule 41(b) of the Federal Rules

of Civil Procedure.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a *de novo* determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report and Recommendation, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

As stated above, the Magistrate Judge's Report and Recommendation in this case was filed on April 3, 2006. As such, any objections to the Report and Recommendation were due on or before April 20, 2006. See Rule 72(b) of the Federal Rules of Civil Procedure. On April 6, 2006, the plaintiff filed a motion for an extension of time to file a response to the defendants' motion for summary judgment. As of the date of this Order, no response has been filed to the defendants' motion for summary judgment. More importantly, there have been no objections filed to the Report and Recommendation. Therefore, this court cannot continue to delay this matter any further.

After carefully reviewing the Report and Recommendation, pleadings, and applicable law, the court adopts the [Entry #29] Report and Recommendation of the Magistrate Judge and incorporates it herein. For the reasons stated therein and in this Order, the [Entry #30] plaintiff's motion for an extension of time to file a response to the [Entry #17] defendants' motion for summary judgment is **DENIED**. Likewise, the [Entry #17] defendants' motion for summary judgment is deemed **MOOT**.

This action is hereby **DISMISSED**, with prejudice, for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

IT IS SO ORDERED.

s/ R. Bryan Harwell

R. Bryan Harwell
United States District Judge

Florence, South Carolina
May 31, 2006